

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BREANNA H. HARRISON AND §
CYNTHIA K. ABNER, INDIVIDUALLY §
AND ON BEHALF OF THE ESTATE §
OF MARCUS H. HARRISON §
Plaintiffs, §
§
v. § Cause No. _____
§
DARNAS, INC. DUSNIEL GONZALEZ § JURY DEMANDED
AND GEICO INDEMNITY COMPANY §
Defendants §

DEFENDANT DARNAS, INC.'S NOTICE OF AND PETITION FOR REMOVAL

TO THE COURT:

Defendant, DARNAS, INC., files this Notice of and Petition for Removal of an action pending in the 278th Judicial District Court, Madison County, Texas to the United States District Court for the Southern District of Texas, Houston Division pursuant to 28 U.S.C. §§ 1441 and 1446. In support, Defendant shows the Court as follows:

State Court Case

1. On February 7, 2017, Plaintiffs filed their Original Petition in the 278th Judicial District Court in Cause No. 17-14633, styled *Breanna H. Harrison and Cynthia K. Abner, Individually and on behalf of the Estate of Marcus H. Harrison v. Darnas Inc., Dusniel Gonzalez and GEICO Indemnity Company*. (Exhibit "A."). In Plaintiffs' Original Petition, Plaintiffs seek recovery against Darnas, Inc. and Dusniel Gonzalez based on negligence and vicarious liability and against GEICO Indemnity Company for underinsured motorist protection bodily injury coverage. (*Id.*)

2. On February 10, 2017, Plaintiffs filed their First Amended Original Petition, joining Sara Acevedo, Individually and as Agent for TransGo Carriers, LLC, as a Defendant. (Exhibit “B.”) Plaintiffs allege Sara Acevedo is a representative, agent, or employee of TransGo Carriers, LLC, and provides support to drivers and trucking companies hauling loads. Plaintiffs contend Acevedo knew or should have known that Defendant, Dusniel Gonzalez, was a dangerous, unsafe, and inexperienced driver. TransGo Carriers, LLC is not a named defendant. (*Id.* at 5.)

3. Darnas, Inc. was served with process on February 24, 2017 and timely filed its answer in State Court on March 17, 2017. This was the first notice of the lawsuit. Accordingly, this Notice of Removal of the state court action is filed within 30 days of receipt of the first notice of the state court lawsuit.

4. This lawsuit arises from an auto accident that occurred on January 27, 2017 and involved Dusniel Gonzalez and Marcus H. Harrison. At the time of the accident, Dusniel Gonzalez was operating a tractor-trailer on behalf of YMA Transport Services Corp. The tractor is owned by Darnas, Inc. The load being haul by Dusniel Gonzalez fell from the trailer, and, thereafter, Marcus H. Harrison’s pickup collided with the lost cargo. Marcus H. Harrison sustained fatal injuries as a result of this accident.

Statement of Facts Supporting Removal Based on Diversity

5. The underlying state court lawsuit made the basis of this Notice of and Petition for Removal is a civil action over which this Court has jurisdiction under the provisions of

28 U.S.C. § 1332, and is one that may be removed to this Court by Darnas, Inc. under the provisions of 28 U.S.C. § 1441.

6. As set forth in Plaintiffs' Original Petition and First Amended Original Petition, Darnas, Inc. is a corporation registered in Florida with its principal place of business in Miami, Florida. (Exhibits "A," "B.") Further, Dusniel Gonzalez is a resident of Florida. (Exhibits "A," "B.")

7. There is not complete diversity of the parties on the face of Plaintiff's First Amended Original Petition, as Plaintiffs identify GEICO Indemnity Company as a Texas corporation and Sara Acevedo as a Texas resident. However, based on information and belief, GEICO Indemnity Company is a Maryland corporation. Sarah Acevedo is a fraudulent defendant named only for the purposes of jurisdiction.

8. Under the doctrine of fraudulent joinder, the Court may disregard a nondiverse defendant when (1) the plaintiff fraudulently pleaded jurisdictional facts to add a nondiverse defendant, (2) the plaintiff has no cause of action against the nondiverse defendant, or (3) the claims against the nondiverse defendant have no real connection to the claims against the other defendants. *Salazar v. Allstate Tex. Lloyd's, Inc.* 455 F.3d 571, 574 (5th Cir. 2006). This Court should disregard Sara Acevedo for purposes of jurisdiction because Plaintiffs fraudulently pleaded jurisdictional facts in an attempt to secure jurisdiction in state court. Interestingly, Plaintiffs have not named TransGo, Carriers, LLC, as a Defendant in this matter. Plaintiffs have not set forth pleadings to explain why Sara Acevedo should be

individually liable for her alleged acts and/or omissions as an agent or representative of TransGo Carriers, LLC. Plaintiffs propounded requests for disclosure to all Defendants with the exception of Sara Acevedo. (Exhibit "B.")

9. Plaintiffs contend Sara Acevedo, Individually and as Agent for TransGo Carriers, LLC, knew or should have known that Defendant, Dusniel Gonzalez, was a dangerous, unsafe, and inexperienced driver and Acevedo's failure to employ a safe driver proximately caused the accident at issue. (Exhibit "B.") However, TransGo Carriers, LLC did not broker the load that Dusniel Gonzalez was hauling at the time of the accident. Somerset Logisitics brokered the subject load when it hired YMA Transport Services Corp. to haul the load.

10. The amount in controversy exceeds \$75,000, excluding interest, costs, and attorney's fees. 28 U.S.C. § 1332(a). In this lawsuit, Plaintiffs seek monetary relief in excess of \$1,000,000.00. (Exhibit "B.")

11. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a). The only filings in the state court action are Plaintiff's Original Petition, Plaintiff's First Amended Original Petition, Proof of Service, Defendant GEICO Indemnity Company's Original Answer and Defendant Darnas, Inc.'s Original Answer filed in state court, certified copies of which are attached to this Notice of and Petition for Removal collectively as Exhibits, "A," "B," and "C."

12. Venue is proper in the Southern District of Texas, Houston Division because the state court in which Plaintiffs filed their Original Petition is located in Madison County, Texas.

13. Defendant concurrently filed a copy of the Notice of Filing of Notice of Removal that was filed on behalf of Darnas, Inc. in state court with the Southern District of Texas. A copy of the Notice of Filing of Notice of Removal that was filed on behalf of the Defendant in the state court action is attached to this Notice of and Petition for Removal as Exhibit "D."

Notice of Removal from State Court

14. As noted above, Defendant filed a Notice of Filing of Notice of Removal in the state court action.

Jury Demand

15. Defendant requests a jury trial in the removed action.

Prayer

16. Defendant, Darnas, Inc., prays this Court recognizes the effect of the Notice of and Petition for Removal, and that the Clerk of the Court take the necessary steps to effectuate this removal to Federal Court. Defendant further prays for all other relief, general or special, at law or in equity, to which it may be entitled.

Respectfully submitted,

LAPIDUS KNUDSEN, PC


MARK R. LAPIDUS
Federal Bar No. 10200
State Bar No. 11942250
mlapidus@lk-lawfirm.com

MEGAN L. KNUDSEN
Federal Bar No. 37150
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3518 Travis Street, Suite 100
Houston, Texas 77002
(713) 400-6000
(713) 622-8054 (FAX)

**ATTORNEYS FOR DEFENDANT
DARNAS, INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24th day of March, 2017, a copy of ***Defendant's Notice of and Petition for Removal*** was sent to all known counsel of record, in accordance with the Texas Rules of Civil procedure, as follows:

David Hammit
David Hammit LLC
109 S. Madison St.
Madisonville, TX 77864

Via ECF and Facsimile (936) 349-0505

John O'Herren
Cynthia Culp
Sheehy, Lovelace & Mayfield, PC
510 North Valley Mills Drive, Suite 500
Waco, TX 76701

Via ECF and Facsimile (254) 772-9297


MEGAN L. KNUDSEN

EXHIBIT “A”

Filed 2/7/2017 2:48:13 PM
Rhonda Savage
District Clerk
Madison County, Texas

Melissa Remenar

Cause No. 17-14633

BREANNA H. HARRISON and } IN THE DISTRICT COURT OF
CYNTHIA K. ABNER, Individually and on }
Behalf of the Estate of MARCUS H. }
HARRISON }
vs } MADISON COUNTY, TEXAS
DARNAS, INC., DUSNIEL GONZALEZ }
and GEICO INDEMNITY COMPANY }
} Madison County - 278th District Court
} _____ TH JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION
and Request for Disclosure

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, BREANNA H. HARRISON and CYNTHIA K. ABNER, Individually and on Behalf of the Estate of MARCUS H. HARRISON, an adult now deceased, complaining of DARNAS, INC., DUSNIEL GONZALEZ and GEICO INDEMNITY COMPANY and for cause would respectfully show unto this Honorable Court as follows:

I.

This is an action for damages instituted by Plaintiffs BREANNA H. HARRISON and CYNTHIA K. ABNER, the natural born children of MARCUS H. HARRISON, Deceased.

Further, this action for wrongful death damages is brought pursuant to the Texas Wrongful Death and Survival Statute, Civil Practice & Remedies Code Sections 71.001 et seq., 71.021.

II.

BREANNA H. HARRISON hereinafter referred to as Plaintiff HARRISON for all intent and purposes, is a natural person who is a resident citizen of Leon County, Texas. The last three numbers of said Plaintiff's driver's license number are 818 and the last three numbers of said Plaintiff's social security number are 178. Plaintiff is a beneficiary entitled

STATE OF TEXAS
COUNTY OF MADISON
RHONDA SAVAGE, CLERK OF THE 12TH
AND 278TH JUDICIAL DISTRICT IN AND FOR
MADISON COUNTY, TEXAS DO HEREBY
CERTIFY THAT THE ABOVE AND FOREGOING
IS A TRUE AND CORRECT COPY.
WITNESS MY HAND AND THE OFFICIAL
SEAL OF THIS OFFICE
RHONDA SAVAGE, CLERK
DISTRICT COURT, MADISON COUNTY
2/7/2017
RHONDA SAVAGE, DISTRICT CLERK

to bring this action pursuant to Civil Practice & Remedies Code Section 71.004 et seq.

Plaintiff CYNTHIA K. ABNER is hereinafter referred to as Plaintiff ABNER for all intent and purposes, is a natural person who is a resident citizen of Montgomery County, Texas. The last three numbers of said Plaintiff's driver's license number are 881 and the last three numbers of said Plaintiff's social security number are 502. Plaintiff is a beneficiary entitled to bring this action pursuant to Civil Practice & Remedies Code Section 71.004 et seq.

DARNAS, INC. hereinafter referred to as Defendant DARNAS for all intent and purposes, is a Florida Corporation, doing business in the State of Texas, wherein service may be had upon this Defendant by serving its agent for service, Carmen Vargas, at 6907 NW 82nd Street, Miami, FL 33166 or wherever she may be found.

DUSNIEL GONZALEZ hereinafter referred to as Defendant GONZALEZ for all intent and purposes, is a natural person who may be served with process at Defendant's usual place of abode, 13111 SW 54TH St., Miami, FL 33175 or where he may be found.

GEICO INDEMNITY COMPANY hereinafter referred to as Defendant GEICO for all intent and purposes, is an insurance company authorized to do business in the State of Texas, and may be served with process herein by serving its registered attorney for service, Dan Beacom at 2280 N Greenville Ave, Richardson TX 75082-4412.

III.

Plaintiffs state that at the time of the filing of this petition, a representative of the Estate of Marcus H. Harrison has not been appointed.

IV.

Pursuant to the Texas Rules of Civil Procedure Rule 190.3, discovery is intended to be conducted under Level 2. Plaintiffs request the Court to enter a Level 2 Scheduling Order or Docket Control Order commensurate with the complexities of this case.

V.

Venue is proper in Madison County, Texas, under and by virtue of Texas Civil

Practice and Remedies Code, Section 15.002, because all or a substantial part of the events or omissions occurred in Madison County, Texas.

VI.

RULE 194 REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants DARNAS, GONZALEZ and GEICO are requested to disclose within fifty [50] days of receipt this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure.

VII.

Plaintiff HARRISON and ABNER would show that on or about January 27, 2017, at or near 5:10 a.m., Marcus H. Harrison, was operating his vehicle in a reasonable, safe and prudent manner, traveling southbound on I-45, approximately eleven-miles north of Madisonville, Madison County, Texas, when suddenly and without warning, a truck owned by Defendant DARNAS, and being operated by an employee, Defendant GONZALEZ, lost control of his vehicle, striking the cable barrier fences and the load he was carrying that was not properly secured fell off into the roadway in front Marcus H. Harrison who hit the load, taking the life of Marcus H. Harrison. The accident, collision, and ultimately the death of Marcus H. Harrison were due to the negligence of Defendant GONZALEZ, an agent, servant, and/or employee of Defendant DARNAS. Defendant GONZALEZ, among other things, failed to operate his vehicle in a single lane of traffic, failed to operate the vehicle at a prudent speed, failed to take proper evasive action, failed to adequately and properly maintain the vehicle, failed to turn left to avoid the collision, failed to turn right to avoid the collision, failed to properly and timely, apply the brakes, failed to keep proper lookout and failed to properly secure the load that he was transporting. Plaintiffs reserve the right to amend their pleadings.

Defendant DARNAS is vicariously liable for the conduct and negligent acts of its agent, servant or employee, Defendant GONZALEZ.

As a direct and proximate cause of Defendant GONZALEZ's negligence, Marcus H. Harrison received such significant and massive injuries, that it caused Marcus H. Harrison's death.

The damages suffered by Plaintiffs far exceed the minimum jurisdiction of this Honorable Court.

Plaintiffs respectfully reserve the right to amend the pleadings with particularity when the damages are more fully known.

VIII.

Pleading for Uninsured/Underinsured Motorists Coverage

Further, at the time of the accident, Decedent Marcus H. Harrison had purchased a policy of insurance to provide coverage for, among other things, liability for bodily injuries and property damage protection against uninsured/underinsured motorists. Defendant GEICO, by and through its agent and/or representative, issued Policy No. 4254414743, providing said coverage. Suit on this policy, against Defendant GEICO seeks benefits pursuant to and under the uninsured/underinsured portion of Decedent' Harrison's policy with said Defendant, for which Decedent Harrison paid valuable consideration.

At the time this accident occurred, said policy of insurance and contract was in full force and effect with premiums currently paid thereon.

Plaintiff would show that they are entitled to receive the Uninsured/Underinsured policy limits as a result of their deceased father's tragic death.

Said injuries and damages to Decedent Marcus Harrison were proximately caused by the carelessness and negligence of Defendant GONZALEZ an uninsured and/or underinsured motorist as that term is understood under existing case law.

Plaintiffs HARRISON and ABNER would further show that they are in compliance with the terms and conditions precedent of said policy of insurance, or in the alternative, that he/she is in substantial compliance with the terms and conditions precedent of said policy of insurance.

IX.

Plaintiffs HARRISON and ABNER, Individually and on Behalf of the Estate of Marcus H. Harrison, allege damages far in excess of the minimum jurisdiction of this Honorable Court and specifically reserve the right to plead the damages with particularity when more fully known.

X.

Plaintiffs HARRISON and ABNER, Individually and on Behalf of the Estate of Marcus H. Harrison, seek monetary relief in an amount deemed fair and appropriate by the trier of fact, and pursuant to Rule 47 of the Texas Rules of Civil Procedure, plead for monetary relief over \$1,000,000.00, should the jury or the Honorable Court decide it is appropriate.

Further, Plaintiffs HARRISON and ABNER, individually and on Behalf of the Estate of Marcus H. Harrison, demand judgment for all the other relief to which the parties deem themselves entitled.

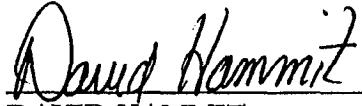
XI.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs BREANNA H. HARRISON and CYNTHIA K. ABNER Individually and on Behalf of the Estate of MARCUS H. HARRISON pray Defendants DARNAS, INC., DUSNIEL GONZALEZ and GEICO INDEMNITY COMPANY be cited in terms of law to appear and answer herein; that upon final trial or hearing hereof, judgment be rendered against Defendants; that Plaintiffs have pre-judgment and post-judgment interest at the legal rate; that Plaintiffs have and recover costs of court in this behalf expended; and, that Plaintiffs have such other and further relief, both general and special, at law and in equity, to which they may show themselves justly entitled, and in duty bound will ever pray.

Respectfully submitted,

DAVID HAMMIT, LLC

Attorney at Law
109 South Madison Street
Madisonville, Texas 77864
Ph: (936) 349-1600
FX: (936) 349-0505



DAVID HAMMIT
State Bar No. 08857660

EXHIBIT “B”

Filed 2/10/2017 2:03:10 PM
Rhonda Savage
District Clerk
Madison County, Texas

Melissa Remenar

Cause No. 17-14633

BREANNA H. HARRISON and }
CYNTHIA K. ABNER, Individually and on }
Behalf of the Estate of MARCUS H. }
HARRISON }
} }
vs } }
} }
DARNAS, INC., DUSNIEL GONZALEZ, }
GEICO INDEMNITY COMPANY and }
SARA ACEVEDO, Individually and as Agent }
for TRANSGO CARRIERS, LLC } }
} }
IN THE DISTRICT COURT OF MADISON COUNTY, TEXAS
278TH JUDICIAL DISTRICT

**PLAINTIFFS' FRIST AMENDED ORIGINAL PETITION
and Request for Disclosure**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, BREANNA H. HARRISON and CYNTHIA K. ABNER, Individually and on Behalf of the Estate of MARCUS H. HARRISON, an adult now deceased, complaining of DARNAS, INC., DUSNIEL GONZALEZ, GEICO INDEMNITY COMPANY and SARA ACEVEDO, Individually and as Agent for TRANSCO CARRIERS, LLC and for cause would respectfully show unto this Honorable Court as follows:

I

This is an action for damages instituted by Plaintiffs BREANNA H. HARRISON and CYNTHIA K. ABNER, the natural born children of MARCUS H. HARRISON, Deceased.

Further, this action for wrongful death damages is brought pursuant to the Texas Wrongful Death and Survival Statute, Civil Practice & Remedies Code Sections 71.001 et seq., 71.021.

II

BREANNA H. HARRISON hereinafter referred to as Plaintiff HARRISON for all intent and purposes, is a natural person who is a resident citizen of Leon County, Texas. The last three numbers of said Plaintiff's driver's license number are 818 and the last three numbers of their Social Security number are 123-45-6789.

STATE OF TEXAS
COUNTY OF MADISON
I, RHONDA SAVAGE, CLERK OF THE 12TH
AND 278TH JUDICIAL DISTRICT IN AND FOR
MADISON COUNTY, TEXAS DO HEREBY
CERTIFY THAT THE ABOVE AND FOREGOING
IS A TRUE AND CORRECT COPY.
WITNESS MY HAND AND THE OFFICIAL
SEAL OF THIS OFFICE
RHONDA SAVAGE, CLERK
DISTRICT COURT, MADISON COUNTY
RHONDA SAVAGE, DISTRICT CLERK

of said Plaintiff's social security number are 178. Plaintiff is a beneficiary entitled to bring this action pursuant to Civil Practice & Remedies Code Section 71.004 et seq.

Plaintiff CYNTHIA K. ABNER is hereinafter referred to as Plaintiff ABNER for all intent and purposes, is a natural person who is a resident citizen of Montgomery County, Texas. The last three numbers of said Plaintiff's driver's license number are 881 and the last three numbers of said Plaintiff's social security number are 502. Plaintiff is a beneficiary entitled to bring this action pursuant to Civil Practice & Remedies Code Section 71.004 et seq.

DARNAS, INC. hereinafter referred to as Defendant DARNAS for all intent and purposes, is a Florida Corporation, doing business in the State of Texas, wherein service may be had upon this Defendant by serving its agent for service, Carmen Vargas, at 6907 NW 82nd Street, Miami, FL 33166 or wherever she may be found.

DUSNIEL GONZALEZ hereinafter referred to as Defendant GONZALEZ for all intent and purposes, is a natural person who may be served with process at Defendant's usual place of abode, 13111 SW 54TH St., Miami, FL 33175 or where he may be found.

GEICO INDEMNITY COMPANY hereinafter referred to as Defendant GEICO for all intent and purposes, is an insurance company authorized to do business in the State of Texas, and may be served with process herein by serving its registered attorney for service, Dan Beacom at 2280 N Greenville Ave, Richardson TX 75082-4412.

SARA ACEVEDO, Individually and as Agent for TRANSGO CARRIERS, LLC, hereafter referred to as Defendant ACEVEDO for all intent and purposes, is a natural person who may be served with process at Defendant's usual place of employment, TRANSGO CARRIERS, LLC at 515a S Fry Rd #162, Katy, TX 77450-2214 or wherever she may be found.

III

Plaintiffs state that at the time of the filing of this petition, a representative of the Estate of Marcus H. Harrison has not been appointed.

IV

Pursuant to the Texas Rules of Civil Procedure Rule 190.3, discovery is intended to be conducted under Level 2. Plaintiffs request the Court to enter a Level 2 Scheduling Order or

Docket Control Order commensurate with the complexities of this case.

V

Venue is proper in Madison County, Texas, under and by virtue of Texas Civil Practice and Remedies Code, Section 15.002, because all or a substantial part of the events or omissions occurred in Madison County, Texas.

VI

RULE 194 REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants DARNAS, GONZALEZ and GEICO are requested to disclose within fifty [50] days of receipt this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure.

VII

Plaintiff HARRISON and ABNER would show that on or about January 27, 2017, at or near 5:10 a.m., Marcus H. Harrison, was operating his vehicle in a reasonable, safe and prudent manner, traveling southbound on I-45, approximately eleven-miles north of Madisonville, Madison County, Texas, when suddenly and without warning, a truck owned by Defendant DARNAS, and being operated by an employee, Defendant GONZALEZ, lost control of his vehicle, striking the cable barrier fences and the load he was carrying that was not properly secured fell off into the roadway in front Marcus H. Harrison who hit the load, taking the life of Marcus H. Harrison. The accident, collision, and ultimately the death of Marcus H. Harrison were due to the negligence of Defendant GONZALEZ, an agent, servant, and/or employee of Defendant DARNAS. Defendant GONZALEZ, among other things, failed to operate his vehicle in a single lane of traffic, failed to operate the vehicle at a prudent speed, failed to take proper evasive action, failed to adequately and properly maintain the vehicle, failed to turn left to avoid the collision, failed to turn right to avoid the collision, failed to properly and timely, apply the brakes, failed to keep proper lookout and failed to properly secure the load that he was transporting. Plaintiffs reserve the right to amend their pleadings.

Defendant DARNAS is vicariously liable for the conduct and negligent acts of its agent, servant or employee, Defendant GONZALEZ.

As a direct and proximate cause of Defendant GONZALEZ's negligence, Marcus H. Harrison received such significant and massive injuries, that it caused Marcus H. Harrison's death.

The damages suffered by Plaintiffs far exceed the minimum jurisdiction of this Honorable Court.

Plaintiffs respectfully reserve the right to amend the pleadings with particularity when the damages are more fully known.

VIII

Pleading for Uninsured/Underinsured Motorists Coverage

Further, at the time of the accident, Decedent Marcus H. Harrison had purchased a policy of insurance to provide coverage for, among other things, liability for bodily injuries and property damage protection against uninsured/underinsured motorists. Defendant GEICO, by and through its agent and/or representative, issued Policy No. 4254414743, providing said coverage. Suit on this policy, against Defendant GEICO seeks benefits pursuant to and under the uninsured/underinsured portion of Decedent' Harrison's policy with said Defendant, for which Decedent Harrison paid valuable consideration.

At the time this accident occurred, said policy of insurance and contract was in full force and effect with premiums currently paid thereon.

Plaintiff would show that they are entitled to receive the Uninsured/Underinsured policy limits as a result of their deceased father's tragic death.

Said injuries and damages to Decedent Marcus Harrison were proximately caused by the carelessness and negligence of Defendant GONZALEZ an uninsured and/or underinsured motorist as that term is understood under existing case law.

Plaintiffs HARRISON and ABNER would further show that they are in compliance with the terms and conditions precedent of said policy of insurance, or in the alternative, that he/she is in substantial compliance with the terms and conditions precedent of said policy of insurance.

IX

Plaintiffs HARRISON and ABNER, would show that Defendant ACEVEDO is an

agent and/or representative and/or employee of TransGo Carriers, LLC and provides logistical support relating to drivers and trucking companies that transport heavy equipment and other commodities.

Plaintiffs would show that Defendant ACEVEDO knew or should have known that Defendant GONZALEZ was a dangerous, unsafe, inexperienced driver and that Defendant ACEVEDO's failure to employ a safe, experienced driver was the proximate cause of the motor vehicle accident made subject this cause of action.

X

Plaintiffs HARRISON and ABNER, Individually and on Behalf of the Estate of Marcus H. Harrison, allege damages far in excess of the minimum jurisdiction of this Honorable Court and specifically reserve the right to plead the damages with particularity when more fully known.

XI

Plaintiffs HARRISON and ABNER, Individually and on Behalf of the Estate of Marcus H. Harrison, seek monetary relief in an amount deemed fair and appropriate by the trier of fact, and pursuant to Rule 47 of the Texas Rules of Civil Procedure, plead for monetary relief over \$1,000,000.00, should the jury or the Honorable Court decide it is appropriate.

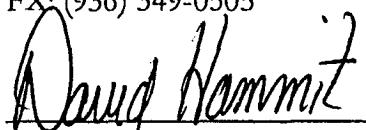
Further, Plaintiffs HARRISON and ABNER, individually and on Behalf of the Estate of Marcus H. Harrison, demand judgment for all the other relief to which the parties deem themselves entitled.

XII

WHEREFORE, PREMISES CONSIDERED, Plaintiffs BREANNA H. HARRISON and CYNTHIA K. ABNER Individually and on Behalf of the Estate of MARCUS H. HARRISON pray Defendants DARNAS, INC., DUSNIEL GONZALEZ and GEICO INDEMNITY COMPANY be cited in terms of law to appear and answer herein; that upon final trial or hearing hereof, judgment be rendered against Defendants; that Plaintiffs have pre-judgment and post-judgment interest at the legal rate; that Plaintiffs have and recover costs of court in this behalf expended; and, that Plaintiffs have such other and further relief, both general and special, at law and in equity, to which they may show themselves justly entitled, and in duty bound will ever pray.

Respectfully submitted,

DAVID HAMMIT, LLC
Attorney at Law
109 South Madison Street
Madisonville, Texas 77864
Ph: (936) 349-1600
FX: (936) 349-0505



DAVID HAMMIT
State Bar No. 08857660

EXHIBIT “C”

Filed 3/16/2017 1:57:07 PM
Rhonda Savage
District Clerk
Madison County, Texas

Melissa Remenar

CAUSE NO. 17-14633

**BREANNA H. HARRISON and
CYNTHIA K. ABNER, Individually
And on Behalf of the Estate of
MARCUS H. HARRISON,
Plaintiffs**

IN THE DISTRICT COURT

v.
**DARNAS, INC., DUSNIEL GONZALEZ,
GEICO INDEMNITY COMPANY and
SARA ACEVEDO, Individually and as
Agent for TRANSGO CARRIERS, LLC**
Defendants

MADISON COUNTY, TEXAS

278TH JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF THIS COURT:

NOW COMES GEICO INDEMNITY COMPANY ("Geico), Defendant in the above numbered and entitled cause, and, by way of Original Answer herein, shows the following:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Geico generally denies the material allegations contained in Plaintiffs' Original Petition and demands strict proof thereof.

II. JURY DEMAND

Geico requests a trial by jury.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Geico prays that Plaintiffs take nothing by their suit and that Geico recover its costs and such other relief to which it may be justly entitled.

DEFENDANT'S ORIGINAL ANSWER

Respectfully submitted,

/s/ Cynthia Culp

John O'Herren #15236500
Cynthia Culp #24089329
SHEEHY, LOVELACE & MAYFIELD, P.C.
510 North Valley Mills Drive, Suite 500
Waco, Texas 76701
Telephone No.: (254) 772-8022
Facsimile No.: (254) 772-9297
joheren@slmpc.com
cculp@slmpc.com

**ATTORNEYS FOR DEFENDANT
GEICO INDEMNITY COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-filing, on the 16th day of March, 2017, to the following:

David Hammit
109 South Madison Street
Madisonville, Texas 77864
(936) 349-1600 Phone
(936) 349-0505 Facsimile

/s/ Cynthia Culp

Cynthia Culp

Filed 3/17/2017 12:10:14 PM
Rhonda Savage
District Clerk
Madison County, Texas

Melissa Remenar

CAUSE NO. 17-14633

BREANNA H. HARRISON AND §
CYNTIA K. ABNER, INDIVIDUALLY §
AND ON BEHALF OF THE ESTATE §
OF MARCUS H. HARRISON §
Plaintiffs §
§
v. §

DARNAS, INC. DUSNIEL GONZALEZ §
AND GEICO INDEMNITY COMPANY §
Defendants. §

IN THE DISTRICT COURT OF
MADISON COUNTY, TEXAS
278th JUDICIAL DISTRICT

DEFENDANT DARNAS, INC.'S
ORIGINAL ANSWER, JURY DEMAND, AND REQUESTS FOR DISCLOSURE

DARNAS, INC., one of the Defendants in this lawsuit, files its Original Answer, Jury Demand, and Requests for Disclosure. In support, Defendant shows this Court as follows:

1.

As permitted by Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies the allegations made by Plaintiffs in their most recent Petition. Defendant specifically reserves the right to amend its answer pursuant to the Texas Rules of Civil Procedure.

2.

In the alternative, and without waiving the foregoing, Defendant would affirmatively plead that Plaintiffs' injuries were caused by the acts and/or omissions of Marcus H. Harrison.

3.

Pleading further, Defendant would show that the actions and/or inactions of third parties not under Defendant's control caused the injuries, if any, made the basis of this suit.

STATE OF TEXAS
COUNTY OF MADISON
I, RHONDA SAVAGE, CLERK OF THE 12th
AND 278th JUDICIAL DISTRICT IN AND FOR
MADISON COUNTY, TEXAS DO HEREBY
CERTIFY THAT THE ABOVE AND FOREGOING
IS A TRUE AND CORRECT COPY.
WITNESS MY HAND AND THE OFFICIAL
SEAL OF THIS OFFICE.
RHONDA SAVAGE, CLERK
DISTRICT COURT, MADISON COUNTY
3/17/2017
RHONDA SAVAGE, DISTRICT CLERK

4.

In the alternative, and without prejudice to the foregoing, Defendant affirmatively pleads Plaintiffs' recoverable lost wages, if any, must be net after income taxes.

5.

Pleading further, to the extent Plaintiffs' medical expenses exceed the amount actually paid by or incurred on their behalf, Defendant asserts the statutory defense set forth in §41.0105 of the Texas Civil Practice & Remedies Code.

6.

JURY DEMAND

Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendant makes demand and application for a jury trial.

7.

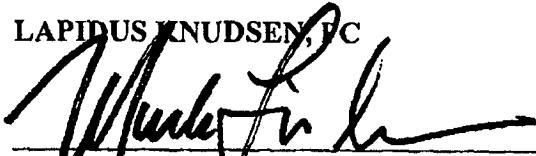
REQUESTS FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant respectfully requests that each Plaintiff disclose within 30 days of service of this Request, the information and material described in Rule 194.

WHEREFORE, PREMISES CONSIDERED, Defendant prays all relief sought by Plaintiffs be denied and that Defendant have such other and further relief, at law or in equity, to which it may be justly entitled.

Respectfully submitted,

LAPIDUS KNUDSEN, PC



MARK R. LAPIDUS

SBN: 11942250

m.lapidus@lk-lawfirm.com

MEGAN L. KNUDSEN

SBN: 24040473

m.knudsen@lk-lawfirm.com

3518 Travis, Suite 100

Houston, TX 77002

(713) 400-6000

(713) 622-8054 (FAX)

ATTORNEYS FOR DEFENDANT

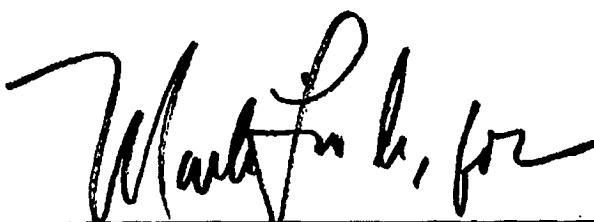
DARNAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all parties and/or attorneys of record via facsimile and in accordance with the Texas Rules of Civil Procedure, on this 17th day of March, 2017.

David Hammit
David Hammit LLC
109 S. Madison St.
Madisonville, TX 77864
david@hammitlaw.com

Via Facsimile (936) 349-0505



MEGAN L. KNUDSEN

Filed 2/23/2017 10:45:13 PM
Rhonda Savage
District Clerk
Madison County, Texas

RHONDA SAVAGE
MADISON COUNTY, District Clerk
101 W. MAIN, ROOM 226
MADISONVILLE, TEXAS 77864-1909



ATTORNEY FOR PLAINTIFF(s) Remenar
David Hammitt
109 South Madison
MADISONVILLE, TX 77864

REGULAR CITATION

Greetings,

TO:

SARA ACEVEDO
INDIVIDUALLY, AND AS AGENT TO TRANSGO CARRIERS, LLC
1111 HOUGHTON ROAD, APT. 110
KATY, TX 77450
OR WHEREVER SHE MAY BE FOUND

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

You are hereby commanded to appear by filing a written answer to PLAINTIFF'S FRIST AMENDED ORIGINAL PETITION AND REQUEST FOR DISCLOSURE, at or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service thereof before the Honorable 278 Judicial District Court of Madison County, Texas. Said petition was filed 02/10/2017 in the above entitled cause No. 17-14633.

BREANNA H HARRISON AND CYNTHIA K. ABNER, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF MARCUS H. HARRISON, Plaintiff(s) VS DARNAS, INC., DUSNIEL GONZALEZ AND GEICO INDEMINITY COMPANY, Defendant(s)

The nature of Petitioner(s) demand is fully shown by a true and correct copy of PLAINTIFF'S FRIST AMENDED ORIGINAL PETITION AND REQUEST FOR DISCLOSURE accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Madisonville, Texas this the 23rd day of February, 2017.

Rhonda Savage

RHONDA SAVAGE, District Clerk
278 JUDICIAL DISTRICT COURT
MADISON COUNTY, TEXAS

By Tiffany A. McClure Deputy

DO NOT COPY OR ALTER • This document contains security features.

KHUF 353
STATE OF TEXAS
COUNTY OF MADISON
RHONDA SAVAGE, CLERK OF THE 12TH
AND 278TH JUDICIAL DISTRICTS AND FOR
MADISON COUNTY, TEXAS DO HEREBY
CERTIFY THAT THE ABOVE AND FOREGOING
IS A TRUE AND CORRECT COPY.
WITNESS MY HAND AND THE OFFICIAL
SEAL OF THIS OFFICE.
RHONDA SAVAGE, CLERK
DISTRICT COURT, MADISON COUNTY
RHONDA SAVAGE, DISTRICT CLERK

OFFICER'S RETURN

17-14633

278TH JUDICIAL DISTRICT COURT

PLAINTIFF'S FRST AMENDED ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

Came to hand on the 23 day of FEBRUARY, 2017, at 3:30 o'clock P.m., and executed on the
23 day of FEBRUARY, 2017, at 4:52 o'clock P.m., at HARRIS County,
111 HOUGHTON ROAD, APT. 110, KATY, TEXAS 77450 by delivering to each of the within-named defendant(s), in person, a true copy of this Citation,
having first endorsed thereon the date of delivery, together with the accompanying times and places to-wit:

Name SARA ACEVEDO, INDIVIDUALLY AND AS AGENT TO TRANSGO CARRIERS, LLC
Day/Month/Year 2/28/17 Hour/Minute 4:52 PM To Address served
111 HOUGHTON ROAD, APT. 110, KATY, TEXAS 77450

Not executed for the following reasons:

Information received as to the whereabouts of the said defendant SARA ACEVEDO being

I am a disinterested person competent to make oath of the fact.

I actually and necessarily traveled _____ miles in the service of this Writ in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

FEES: Serving --- cop----- \$
Mileage _____ miles-- \$
Total----- \$ _____

Subscribed and sworn to ROBERT BAKER before me, the undersigned authority, this the
23 day of FEBRUARY, 2017, at 4:52 o'clock P.m.

SCH 167 EXP 8/31/17, Sheriff
HARRIS County,
State of TEXAS
By R. Baker, Deputy

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107; The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must be verified and signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and my address is
(First, Middle, Last)

(Street, City, State, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of _____

* Affidavit on back *

Declarant/Authorized Process Server

(Id# & expiration of certification)

AFFIDAVIT FROM AUTHORIZED PROCESS SERVER

THE STATE OF TEXAS:
COUNTY OF MADISON:

CAUSE NO.: 17-14633
COURT: 278TH DISTRICT COURT

BREANNA H. HARRISON AND CYNTHIA K. ABNER, INDIVIDUALLY AND ON
BEHALF OF THE ESTATE OF MARCUS H. HARRISON
VS
DARNAS, INC., DUSNIEL GONZALEZ AND GEICO INDEMNITY COMPANY

Came to Hand: FEBRUARY 23, 2017 @ 3:30 PM

Date and Time FEBRUARY 23, 2017
Delivered: 4:52 PM
1111 HOUGHTON AD, APT. 110, KATY, TEXAS 77450

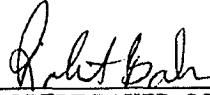
Document(s) 1- PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION AND REQUEST FOR
Delivered: DISCLOSURE ON: SARA ACEVEDO, INDIVIDUALLY AND AS AGENT
TO TRANSGO CARRIERS, LLC

Before me the undersigned authority, on this day personally appeared ROBERT BAKER, known to me to be the person whose name is subscribed hereto and under oath stated:

"My name is ROBERT BAKER. I personally delivered the document(s) to SARA ACEVEDO, INDIVIDUALLY AND AS AGENT TO TRANSGO CARRIERS, LLC. I am over the age of twenty-one years and of sound mind. I am not a party to or interested in the outcome of this cause, and I am authorized by the Texas Supreme Court to serve citations, petitions and civil process for the courts of Texas. I have personal knowledge of every statement herein made, and I am fully competent to testify as to matters stated herein.

Every statement in this affidavit is true and correct".

Signed this 23 day of FEBRUARY 2017.


ROBERT BAKER, SCH#167
Authorized Process Server
Expires Aug. 31, 2017

SUBSCRIBED AND SWORN TO BEFORE ME on this 23 day of FEBRUARY 2017.




Carol Agnew

Notary Public, State of Texas

RHONDA SAVAGE
MADISON COUNTY, District Clerk
101 W. MAIN, ROOM 226
MADISONVILLE, TEXAS 77864-1909



ATTORNEY FOR PLAINTIFF(s)
David Hammit
109 South Madison
MADISONVILLE, TX 77864

REGULAR CITIGATION

SERVED

DATE 03-01-2017
TIME 7:25 PM
BY R. Ayale CERT # 1825

Greetings,
TO:
DUSNIEL GONZALEZ
13111 SW 54TH ST.
MIAMI FL, 33175

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

You are hereby commanded to appear by filing a written answer to PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION AND REQUEST FOR DISCLOSURE, at or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service thereof before the Honorable 278 Judicial District Court of Madison County, Texas. Said petition was filed 02/07/2017 in the above entitled cause No 17-14633.

BREANNA HARRISON AND CYNTHIA K. ABNER, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF MARCUS H. HARRISON, Plaintiff(s) VS DARNAS, INC., DUSNIEL GONZALEZ AND GEICO INDEMNITY COMPANY, Defendant(s)

The nature of Petitioner(s) demand is fully shown by a true and correct copy of PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION AND REQUEST FOR DISCLOSURE accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Madisonville, Texas this the 15th day of February, 2017.

Rhonda Savage

RHONDA SAVAGE, District Clerk
278 JUDICIAL DISTRICT COURT
MADISON COUNTY, TEXAS

By Melissa Remenar Deputy

RHONDA SAVAGE
MADISON COUNTY, District Clerk
101 W. MAIN, ROOM 226
MADISONVILLE, TEXAS 77864-1909



ATTORNEY FOR PLAINTIFF(s)
David Hammit
109 South Madison
MADISONVILLE, TX 77864

REGULAR CITATION

Greetings,
TO:
DARNAS, INC.
AGENT FOR SERVICE CARMEN VARGAS
6907 NW 82ND STREET Avenue
MIAMI FL, 33166

SERVED
DATE 1:00 pm
TIME 02.24.2017
BY R. Oylee CERT # 1825

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

You are hereby commanded to appear by filing a written answer to PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE, at or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service thereof before the Honorable 278 Judicial District Court of Madison County, Texas. Said petition was filed 02/07/2017 in the above entitled cause No 17-14633.

BREANNA H HARRISON AND CYNTHIA K. ABNER, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF MARCUS H. HARRISON, Plaintiff(s) VS DARNAS, INC., DUSNIEL GONZALEZ AND GEICO INDEMNITY COMPANY, Defendant(s).

The nature of Petitioner(s) demand is fully shown by a true and correct copy of PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Madisonville, Texas this the 17th day of February, 2017.

Rhonda Savage

RHONDA SAVAGE, District Clerk
278 JUDICIAL DISTRICT COURT
MADISON COUNTY, TEXAS

By *Melissa Remenial* Deputy